

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM E. BOLES and U.S. POSTAL SERVICE,
CINCINNATI BULK MAIL CENTER, Cincinnati, OH

*Docket No. 98-806; Submitted on the Record;
Issued October 4, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs' refusal to reopen appellant's case for reconsideration of the merits of his claim pursuant to section 8128(a) of the Federal Employees' Compensation Act constituted an abuse of discretion.

On April 15, 1996 appellant, then a 39-year-old postal worker, filed a claim alleging that on March 28, 1996 he first realized that his adjustment disorder with depressed mood and anxiety were due to difficulties with his supervisor. In a decision dated September 13, 1996, the Office denied appellant's claim on the grounds that the identified causative factors were not compensable under the Act. On September 12, 1997 appellant, through counsel, filed a request for reconsideration. In a decision dated November 3, 1997, the Office denied appellant's request for review on the grounds that the evidence submitted with his request for reconsideration was immaterial to warrant merit review of its prior decision.

As more than one year has elapsed since the date of the last merit decision, dated September 13, 1996, to the date of appellant's appeal to the Board on December 15, 1997, the Board lacks jurisdiction to review that decision.¹ The only decision before the Board is the November 3, 1997 decision of the Office denying appellant's request for review.

The Board finds that the Office properly denied appellant's request for reconsideration.

Under 20 C.F.R. § 10.138(b)(1), a claimant may obtain review of the merits of her claim by showing that the Office erroneously applied or interpreted a point of law, advancing a point of law or fact not previously considered by the Office, or submitting relevant and pertinent evidence not previously considered by the Office. Section 10.138(b)(2) provides that when an application for review of the merits of a claim does not meet at least one of these requirements,

¹ 20 C.F.R. § 501.3(d).

the Office will deny the application for review without reviewing the merits of the claim.² Evidence that repeats or duplicates evidence already in the case record has no evidentiary value and does not constitute a basis for reopening a case.³ Evidence that does not address the particular issue involved does not constitute a basis for reopening a case.

In the present case, the evidence submitted by appellant with his request for reconsideration was either repetitious or immaterial to the central issue in this case. With his September 12, 1997 request for reconsideration, appellant submitted reports dated April 4, June 27, July 25 and August 5, 1996 from Dr. Kevin W. Eggerman and a copy of a Merit Systems Protection Board (MSPB) notice of timely appeal. Dr. Eggerman opined that appellant's disorder was due to "difficulties" with his supervisor. He did not describe the alleged conflicts with appellant's supervisor with any specificity. Therefore, this evidence fails to directly address the central issue, *i.e.*, whether appellant has established any compensable factors under the Act. The evidence submitted does not set forth any additional factual information that would establish appellant's allegations as factors within the scope of the Act. The notice of timely appeal by the MSPB is also insufficient as it is irrelevant to the issue at hand, whether appellant had established compensable employment factors. Therefore, the MSPB decision is immaterial to appellant's claim. As appellant did not submit any relevant information with his request for reconsideration, the Office properly found that the evidence submitted was not sufficient to reopen his case for merit review.

The decision of the Office of Workers' Compensation Programs dated November 3, 1997 is hereby affirmed.

Dated, Washington, D.C.
October 4, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member

² 20 C.F.R. § 10.138(b)(2).

³ *Sandra F. Powell*, 45 ECAB 877 (1994); *Eugene F. Butler*, 36 ECAB 393 (1984); *Bruce E. Martin*, 35 ECAB 1090 (1984).